

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	CASE NO. 07-38405-H5-13
	§	
Francisco J. Ayala	§	CHAPTER 13
Patricia Ayala	§	
	§	
DEBTOR	§	

DEBTOR(S)' FIRST AMENDED MOTION TO MODIFY CONFIRMED PLAN

The Debtor(s) file this Motion to Modify their confirmed plan.

1. **HISTORY OF CASE.** This case was filed on December 3, 2007. The plan was confirmed on February 19, 2008.

2. **REASON FOR MODIFICATION.** The Debtor fell behind with the Trustee payment due to the loss of his employment and unexpected medical expenses. The Debtor has found new employment and can resume making payments to the Trustee.

3. **PLAN PAYMENTS UNDER CONFIRMED PLAN.** The current plan (as modified through this date) requires payments as follows:

A.	Months: 1-60	Payment: \$1,850.00
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4. **PAYMENTS PREVIOUSLY MADE.** As of the date of this motion was filed, the Debtor(s) have made payments to the chapter 13 trustee totalling \$14,676.45. Attached as Exhibit "A" is a schedule of all amounts received by the chapter 13 trustee.

5. **FUTURE PROPOSED PLAN PAYMENTS (AS MODIFIED).** The proposed modified plan requires future payments as follows:

A.	Months: 13-13	Payment: \$1,000.00
B.	Months: 14-60	Payment: \$2,075.00

6. **CURRENT DEFAULTS.** The Debtor(s) are currently in default on payments to the chapter 13 trustee as follows:

Dollar amount in default:	\$7,523.55
Number of months in default:	4
Last Payment Made:	December 18, 2008
Amount of Last Payment:	\$426.92

7. **PROPOSED PLAN MODIFICATIONS:**

- A. All payment defaults set forth in paragraph 6 are cured by this modification
- B. The plan will provide three (3) post petition payments from October 2008 to December 2008 at \$944.72 for a total sum of \$2,834.16 due to Countrywide Home Loans.
- C. The plan will provide three (3) post petition payments from October 2008 to December 2008 at \$260.24 for a total sum of \$780.72 due to Franklin Credit Management Corp.
- D. The plan will provided 1 on-going mortgage payment to Countrywide Home Loans for month 13 for \$944.73.
- E. The plan will provided 1 on-going mortgage payment to Franklin Credit Management Corp for month 13 for \$260.25.

8. **INTERIM PAYMENTS.** Payments due under this modification will commence on the first due date after this modification is filed, whether or not the modification has yet been approved by the court.

9. **BUDGET.** The Debtor's schedules "I" and "J" that the Debtor(s) request to be considered with this modification are attached as exhibit "B".

10. **ATTORNEYS' FEES (Check One):**

- ☒ Debtor(s)' counsel shall be paid \$450.00 as a fixed fee for this modification. This box may not be checked of the modification was proposed within 120 days on which the plan was confirmed.
- ☐ If Debtor(s)' counsel seeks compensation, a separate application will be filed. If not application is filed, no compensation will be paid.

Dated: January 28, 2009

/s/ Francisco J. Ayala

Francisco J. Ayala

/s/ Patricia Ayala

Patricia Ayala

Respectfully submitted,

/s/ Eloise A. Guzman

Eloise A. Guzman
State Bar No. 08654570; Fed. ID 7685
Attorney in Charge for Debtor(s)
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Houston, TX 77017
(713) 378-9900 - *Telephone*
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Modify Confirmed Plan with Plan Modification and Notice of Hearing and Time to Object was served to all parties in interest listed below and on the attached sheet by First Class United States Mail, postage prepaid, on or before January 28, 2009.

Francisco J. Ayala
Patricia Ayala
7802 Albatross Road
Baytown, TX 77520

William Heitkamp
Chapter 13 Trustee
9821 Katy Frwy., Suite 590
Houston, TX 77024

United States Trustee
515 Rusk, Suite 3516
Houston, TX 77002

/s/ Eloise A. Guzman

Eloise A. Guzman

Asset Acceptance
Po Box 2036
Warren, MI 48090

Barrett, Burke, Wilson, et al.
1900 St. James Place, Suite 500
Houston, TX 77056

Centerpoint
P O Box 1325
Houston, TX 77001

Citibank Usa
Po Box 6003
Hagerstown, MD 21747

Collection
Po Box 9134
Needham, MA 02494

Collection Co America
700 Longwater Dr
Norwell, MA 02061

Conns Credit Corp
3295 College St
Beaumont, TX 77701

Countrywide
450 American St
Simi Valley, CA 93065

Credit Management
4200 International Pkwy
Carrollton, TX 75007

Credit Systems International
1277 Country Club
Fort Worth, TX 76112

Cross Country Bank
800 Delaware Ave
Wilmington, DE 19801

Direct Loans
P O Box 5609
Greenville, Texas 75403

Er Solutions
800 Sw 39th St
Renton, WA 98057

First Premier Bank
601 S Minnesota Ave
Sioux Falls, SD 57104

Franklin Credit Mngmnt
6 Harrison St
New York, NY 10013

Gte Southwest Inc
Po Box 165018
Columbus, OH 43216

Gulf Coast Educator FCU
J.Milton Stewart
P O Box 1111
Baytown, Texas 77522

Harris County Tax Office
P. O. Box 4622
Houston, Texas 77210-4622

Hsbc Nv
Po Box 19360
Portland, OR 97280

Hsbc/tax
90 Christiana Rd
New Castle, DE 19720

Internal Revenue Service
8876 Gulf Freeway
Houston, TX 77017

J. Milton Stewart
P.O. Box 1111
Baytown, TX 77522

Linebarger, Goggan, LLP
P.O. Box 3064
Houston, TX 77253-3064

Midland Credit Mgmt
8875 Aero Dr
San Diego, CA 92123

Nco/ Collection Agency
Pob 41448
Philadelphia, PA 19101

Nelnet Lns
Po Box 1649
Denver, CO 80201

Network Coll
9894 Bissonnet Suite 650
Houston, TX 77036

Palisades Collections
210 Sylvan Ave
Englewood, NJ 07632

Peggy Prescott
PO BOX 106 Ballarre
Bellaire TX, 77402

Security Fin
Po Drawer 811
Spartanburg, SC 29304

Sherman Financial
Po Box 10585
Greenville, SC 29603-0585

Tex Collect/collection
2101 W Ben White Blvd
Austin, TX 78704

Unique National Collec
119 E Maple St
Jeffersonville, IN 47130

Us Dept Of Education
501 Bleecker St
Utica, NY 13501

West Asset
1000 F North Travi
Sherman, TX 75090

West Asset Management
1000 N Travis St Ste F
Sherman, TX 75090

EXHIBIT "A"

12/18/2008			25076950/Jacin to Med	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
12/4/2008			24786395/Jacin to Med	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
11/19/2008			24337407	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
10/22/2008			23563747/Jacin to	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
10/7/2008			23176602	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
9/26/2008			22734119	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
9/23/2008			22366260	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
8/27/2008			21990789	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
8/18/2008			21607876	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
8/17/2008			08866165620	MONEY ORDER/PAYME NT TO DEBTOR ACCT	\$300.00
7/30/2008			21198128	DEBTOR PAYMENTS REMITTED BY EMPLOYER	\$426.92

				DEDUCTION	
7/17/2008			20892265	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
7/2/2008			20179765	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$411.38
6/6/2008			08943878239	MONEY ORDER/PAYME NT TO DEBTOR ACCT	\$240.00
6/5/2008			19716296	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$419.35
5/6/2008			JACINTO 02958	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
4/22/2008			JACINTO 74929	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
4/11/2008			JACINTO	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
4/10/2008			101295649290	MONEY ORDER/PAYME NT TO DEBTOR ACCT	\$500.00
4/10/2008			101295649301	MONEY ORDER/PAYME NT TO DEBTOR ACCT	\$425.00
3/26/2008			JACINTO 15377	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
3/13/2008			JACINTO 11347	DEBTOR PAYMENTS REMITTED BY EMPLOYER DEDUCTION	\$426.92
3/6/2008			3411326	CASHIERS	\$1,850.00

				CHECK/PAYMENT TO DEBTOR ACCT	
2/5/2008			3410965	CASHIERS CHECK/PAYMEN T TO DEBTOR ACCT	\$1,800.00
2/5/2008			11847481817	MONEY ORDER/PAYME NT TO DEBTOR ACCT	\$50.00
1/7/2008			3410702	CASHIERS CHECK/PAYMEN T TO DEBTOR ACCT	\$1,850.00
				Totals:	\$14,676.45